

From: Charles Porter
To: Microsoft ATR
Date: 1/15/02 2:59pm
Subject: Microsoft Settlement

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My Dear Justice:

It is very clear that no settlement with Microsoft will stop Microsoft's anti-competitive practices. Microsoft has a consistent strategy of entering markets that are not being closely watched, and of violating laws in subtle enough ways, that the motivation to stop the behavior does not become sufficient to be effective until Microsoft has effectively destroyed all competition in the target market, and erected prohibitive barriers to entry, making any constraint on the company's behavior irrelevant.

Microsoft is currently engaged in such a campaign to dominate the Internet Service Provider (ISP) Market. In addition to legitimate strategies such as buying shares in existing ISPs like ATT@home, and developing their own ISP business through the MSN.com business, they are engaged in predatory practices which create effective barriers to large numbers of consumers from doing business with any ISP other than MSN.

Microsoft has an agreement to assume all residential Digital Subscriber Line (DSL) accounts from QWest in thirteen western states. Prior to this agreement, selecting an ISP in these states was very much like selecting a long distance carrier. QWest owned the line from the house to the central office, and receives a fee for running DSL over that line. The consumer could then freely choose from at least dozens of ISPs to carry the traffic from there to the internet. One option for an ISP was QWest's own ISP service Qwest.net. If a consumer is unhappy with an ISP, Qwest would switch them to another within a day or two and for a small fee.

Under the agreement with QWest, all of QWest.net customers are transferred to Microsoft. If a customer failed to opt-out before the deadline of November 30, 2001, they would be transferred to MSN. Once the account is transferred to MSN, the consumers relationship with QWest is severed. The customer of record for the DSL service is shifted from Qwest to MSN. This means that Qwest has no control over the customers line, and is unable to shift the consumer to an alternate ISP. Additionally MSN refuses to permit connection to a competing ISP. The only available option is to "Unprovision the Line", which means to disconnect the DSL service altogether, not just from the telephone office to the internet, but from the consumers home to the central office. To make it additionally difficult, the "unprovisioning" process takes 30 days. (Changing from another ISP to MSN takes only 30 seconds via a Qwest Web page.)

Allowing user to opt-out of MSN only by unprovisioning the line is analogous to Sprint saying that the only way to change long-distance carriers is to disconnect your telephone, and then pay to have it reconnected, for the normal new service charges at the time. In fact, unprovisioning the DSL service often does include disconnecting the telephone service itself, though Qwest will claim that this is accidental.

Incidentally, at the time of making the new connection it is difficult to find any options for an ISP other than MSN.

Qwest has taken the additional step of raising the price of a new DSL connection to \$100, creating an additional barrier to changing ISP. Since Microsoft is the majority ISP, most consumers are barred from switching away from Microsoft.

I raise this issue, not because I think the Justice department should be stopping this practice, but because it is strong evidence that Microsoft has not intention of changing its behavior. Information technology changes extremely quickly. By the time Justice is able to stop any particular anti-competitive practice, that practice is irrelevant. The only solution is to remove the power which Microsoft cannot resist abusing.

As serious an issue as removing competition in the ISP market is, it is relatively

small issue compared to Microsoft's stated objective:

control of the internet. Under this plan, for every commercial transaction over the internet, Microsoft will be paid several times:

- once by the consumer for access to the internet, via MSN ISP service
- once by the customer for use of the windows operating system (Microsoft is moving from selling windows to selling subscriptions to windows)
- once by the vendor from whom the consumer purchases for validation of the users identification via Microsoft's passport service,.
- several times by the vendor for several licenses of the Windows server software and web-site software.
- once by the vendor for use of Microsoft financial services currently in development, for the actual transfer of funds
- and more ominously, many more times for selling the information gathered about the consumer while collecting all of the other transactions.

This is just about a simple purchase. I have left out all of the use of Microsoft products in fulfillment of the order and in marketing the product.

Attached is some background material on the QWest/Microsoft case from the Seattle Times and the Seattle Post-Intelligencer.

I am available to provide additional information, should you wish it.

Thanks for your attention.

Charles Porter

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Appendixes:

My complaint to the Washington state attorney general:

Web Site Consumer Informal Complaint Form:

Thank you for using the WUTC Web Site. Use this form to submit complaints to the Consumer Affairs Section

Statewide Toll Free: 1-800-562-6150

Local: 360-664-1120

Hearing Impaired - TTY: 360-586-8203

-----+-----	
Your Name:	Charles Porter
(required)	
-----+-----	
-----+-----	
Your Address:	Street address: 810 - 30th Ave
(We need your	City: Seattle ,
address in	State: WA
order to	Zip: 98122
process your	
comment)	
-----+-----	
Your County:	USA
-----+-----	
Phone Numbers:	Home: 206-568-3404
	Day/Work: 425-455-7601 x231
-----+-----	
-----+-----	
Your E-Mail	charles.porter@computer.org
address:	

Date:	11/30/2001
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Utility or Transportation Company Information	
Company Name:	Qwest, Microsoft
Company Street Address:	City - - - - - State - - - - -
	- - - - Zip
Your Account Number:	206-568-3404
	If your know your Account Number, be sure to include it.

About Your Complaint	
	Have you tried to resolve the dispute with your utility or transportation company?

	() Yes
	() No

	If "yes," what was the result?
	no change
	Please explain your complaint in detail:
	Qwest has been providing my home with internet service via digital subscriber line (DSL). This service only connects my house physically to QWest's offices. In addition to DSL provider, it is necessary to have an internet service provider (ISP), that connects my line from Qwest to the internet. QWest has been providing my ISP service as well. Qwest informed me that I must change my internet provider (ISP) to Microsoft' MSN service by November 31, 2001, or I would be swithed automaticaly. Immediately after performing the switching operation via the Qwest web site on Sunday Oct 22, I learned that the MSN service had several "features" and requirements that are different from those provided by Qwest. I decided that I should investigate other ISP's. To faciliate this more considered change, within 30 minutes of initiating the changeover to MSN, I tried to cancel the change both by contacting Qwest and MSN via email

	<p>and several telephone numbers, including sales, and customer support at both organizations. I attempted both to restore my Qwest service and to change directly to another ISP. The upshot was that I could not cancel the changeover, and that I could only cancel the entire service with Microsoft, but canceling the service would take 30 to 60 days. Additionally the act of canceling, disconnects the DSL service provided by Qwest. Restoring the DSL service would then take anywhere from 10 days to 6 months, depending on demand in my neighborhood.</p> <p>It is a far cry from equal access, when you consider that if my ISP were anyone other than Microsoft, changing ISP is as simple as calling either Qwest or the new ISP and asking for a switch, much like the process of changing long distance companies.</p> <p>Continuing this analogy, their policy of handling Microsoft ISP customers, would be like saying that to change long distance carriers, I must wait 2 months, have all of my phone service disconnected, and then wait 10 days to 6 months for a reconnect.</p>
	<p>What do you think the company should do to resolve your complaint?</p> <p>Qwest should switch my ISP service to any provider I choose, without delay, handling the request with the same even-handedness that is required for customers long-distance carrier choice.</p>

From the Seattle Times:

A growing number of consumers and Internet service providers complain that MSN - Microsoft's Web company - is throwing up roadblocks for former Qwest high-speed Internet customers who want to quit MSN.

"It makes me feel like they're saying 'We're going to teach you a lesson' for wanting to quit them," said Larry Lomax of Des Moines, a former Qwest digital-subscriber-line (DSL) customer who switched to MSN and then decided he wanted to move to another provider.

Lomax said that MSN continually told him that he had been disconnected from its service, while Qwest insisted that according to its records, he still had a live DSL connection with MSN.

The impasse lasted for about two months and ended earlier this month, when Lomax became so frustrated that he decided to give up on DSL altogether.

When Qwest and MSN announced they were teaming up last spring, the two giants promoted their new alliance as a boon to 500,000 Internet

subscribers in 14 states, mostly in the West, who would benefit from Qwest technology and MSN's content.

Roughly two out of five of those subscribers were DSL customers who had chosen Qwest as their Internet service provider; the rest were customers who used dial-up modems. Under the partnership arrangement, all former Qwest customers would automatically become MSN customers - unless they opted out. Washington state DSL customers say the deadline to switch has shifted from a date last month to Jan. 21.

Some critics maintain that MSN is engaging in monopolistic practices that deserve attention, such as forcing customers who want to switch away from MSN to go without DSL service and charging them more if they try to switch.

They further contend that Qwest, which originally promised to treat all DSL providers equally to help spread the technology, now is conspiring with MSN to hoard such prized customers. Qwest insists it is not playing favorites.

MSN likewise denies the allegations, but a spokeswoman acknowledged it recently had learned of problems relating to cancellation orders with DSL customers. She added that MSN was working to correct them.

It is difficult to gauge the scope of the problem because neither Qwest nor MSN will disclose how many DSL customers have chosen to switch to another provider rather than accept MSN.

The companies also won't say how many customers quit MSN after initially agreeing to the transfer. Even more difficult to figure out is the number of consumers who have given up trying to quit MSN because they found the obstacles too daunting.

"Everyone's just up in arms over this thing," said Darwin Hill, owner of Worldlink, a Shoreline-based Internet service provider who contends that MSN's conduct has cost him customers. "Consumers are amazed by how they can't get anything done," he said.

Hill is among the providers and consumers in Washington and other states who are particularly peeved at what they claim are routine waits of two weeks - during which no DSL service is available - to change Internet service providers (ISPs).

In addition, they are concerned about reconnection charges of \$69 that will rise to \$99 on Jan. 5.

By contrast, before MSN's arrival, Qwest charged DSL customers \$30 to change providers. Also, the switch routinely got done overnight, or with minimal service interruption, according to several independent providers.

Charles Porter, a Seattle DSL user who thought better of his decision to accept MSN, filed a complaint with the state attorney general. He stated that when he tried to change service providers, both MSN and Qwest said switching could take from 10 days to six months.

"It is a far cry from equal access, when you consider that if my ISP were anyone other than Microsoft, changing ISPs is as simple as ... changing long-distance companies," he wrote in his complaint. In an interview, Porter said, "Microsoft is up to their old games," referring to monopolistic practices.

Jared Reimer, an executive with The River, a Tucson-based provider that offers DSL service in Arizona and Western Washington, alleged that the system is "rigged up so that it's almost impossible for the customer to switch."

He said that under the new arrangement, Qwest has made MSN the "customer of record" on the DSL portion of a customer's phone line, meaning the consumer no longer has the ability to switch providers at will. "They must get (MSN's) permission to do it," he said.

Lisa Gurry, an MSN product manager, acknowledged that under the deal with Qwest, MSN owns "the interaction with the (DSL) customer." She said the company "recently learned about issues on the order-cancellation process, primarily with DSL (customers). DSL is certainly more complicated for every provider, not just MSN."

She said that the majority of DSL customers wishing to cancel MSN were not having problems and that MSN and Qwest were working "to improve customer experience."

Meantime, Gary Gardner, executive director with the Washington State Association of Internet Service Providers, a trade group for the state's independent providers, is asking the state Attorney General's Office to get involved.

A spokesman for the office said it was aware of the complaints and was monitoring the situation.

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Qwest-to-MSN switch frustrates many
Internet customers find it difficult to get problems resolved

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By JANE HADLEY
SEATTLE POST-INTELLIGENCER CONSUMER AFFAIRS REPORTER

The process of switching hundreds of thousands of Qwest Internet customers to Microsoft's MSN Internet service is experiencing some glitches, both companies admit.

Qwest and Microsoft Corp. in April announced a five-year partnership under which Qwest will close down its Internet provider service and encourage its 500,000 customers to move to MSN. Qwest will be the DSL provider for MSN customers.

The two companies are encouraging customers to switch before Nov. 30, and Qwest says its Internet provider service will close down early next year. Customers have the option of switching to an Internet provider other than MSN, but Qwest, under its agreement, has pledged to promote MSN above other providers.

But in a confusing twist, Qwest is also quietly offering customers the option of staying with Qwest under a program called StarterPak, which is aimed at small businesses, but is similar in most respects to what it had been offering to its residential customers.

The MSN transition problem has been worst for customers who had been using Qwest's DSL service, which provides fast connections to the Internet, said Lisa Gurry, an MSN product manager.

Liz Conner, a Federal Way resident, said she waited 11 weeks to get DSL equipment that she was promised she would get within two weeks.

"I've done everything I can think of and contacted everyone I can find," Conner said. "I tried calling Microsoft, even. They can't even tell me what department to contact or who to contact. So the bottom line is that the customer is stymied; they're left holding the bag with nowhere to go to get this problem resolved. The folks at MSN aren't solving it, and they're blaming Qwest. Qwest isn't solving it. They're blaming

MSN."

How common is this problem? Unfortunately, the state Utilities and Transportation Commission does not keep track of the number of consumers who complain to them about Qwest/MSN problems.

Instead, the commission keeps track of a far smaller number: customers who don't get satisfaction after they call a special Qwest number that the commission gives to people filing complaints.

That amounts to about five people in the past two months, commission spokesman Tim Sweeney said. The Attorney General's Office has received a similar number of complaints about the Qwest/MSN transition in the last few weeks, spokesman Chris Jarvis said.

But Conner said one Qwest customer service representative told her that Qwest's and MSN's computers weren't speaking to one another, and that the mess was affecting about 20,000 Qwest DSL customers.

Lisa Gurry, an MSN product manager, said the two companies are working on synchronizing their databases.

"Both MSN and Qwest are two big companies," Qwest spokesman Michael Dunne said. "Making this partnership work, we're experiencing some difficulties in migrating customers from Qwest.net to MSN."

But he added, "We're working tirelessly with MSN" to solve the problems.

Grace Dapar, another MSN spokeswoman, said MSN has set up a task force specifically to deal with delays in setting up accounts.

Delay is only one complaint. Others include confusion and difficulty making the switch, difficulty reaching company representatives who are knowledgeable and follow through on their promises, and disappointment with services MSN is providing.

Conner, who said she's spent countless hours on the telephone, said Qwest representatives repeatedly made promises that weren't kept and she believed she was being lied to.

"My impression is the folks at Qwest are so desperate to tell you something, and the people above aren't telling them anything."

Aleta Hoyt, a Seattle real estate agent who has Qwest DSL and Internet service, says she has found the process of "transitioning," as Qwest and MSN call it, to be confusing and difficult.

Hoyt received a letter in the mail telling her she needed to transition and could qualify for a prize if she did so before next Friday.

Hoyt believed she had no choice but to switch to MSN. She typed her name into the online form to "transition," but the form told her she was "not authorized" to transition. She called Qwest and was told to reset her password and try again. Same result. She was then given a phone number to call MSN's technical support. When she called there, she was told that wasn't technical support and to call a different number. She called the second number, where she was told to call the first number she had called.

She experienced problems when the form asked for her "billing phone number" yet required three extra digits added to the phone number. Also, she lost her Internet access totally when she followed the Qwest representative's suggestion to reset her password. A different Qwest tech-support person straightened that out.

But now Hoyt was confused because several of the Qwest representatives told her she could stay with Qwest after all, using the \$21.95-a-month StarterPak program. She's now mulling her options.

Meanwhile, in online forums, some customers are complaining that MSN emphasizes Hotmail, its Web-based e-mail service, which makes it impossible to subscribe to traditional Usenet news groups and means that e-mail is stored on MSN servers instead of downloaded to the user's computer.

But MSN's Gurry notes that Web-based e-mail provides the advantage of being accessible from any computer anywhere in the world. Also, MSN has its own news groups, which are "richer" than the Usenet news groups, she said. Gurry initially agreed that MSN was not supporting traditional Post Office Protocol e-mail accounts, but later corrected that and said that although MSN is pushing the Web-based e-mail, users can have access to the traditional POP type of e-mail, in which messages are downloaded to the user's computer.

One customer complained, however, that Microsoft appeared to be doing no spam filtering on its POP accounts. "The services we offer today are based on what the majority of customers have told us they do want," Gurry said.

"Inevitably, we'll hear feedback requesting additional features and functionality. We continue to listen to that feedback and evaluate the prospects of including those features in future MSN releases," she said.

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